THE BOMBAY REVENUE JURISDICTION ACT, 1876.

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ACT No. X OF 1876.[1]

[THE BOMBAY REVENUE JURISDICTION ACT, 1876.]

[*28th March 1876.*]

Repealed in part by Act 4 of 1894 ;
,, ,, ,, ,, ,, 16 of 1895 ;
,, ,, ,, and amended by Act 15 of 1880 ;
,, ,, ,, ,, ,, ,, ,, 12 of 1891 ;
Amended by Act 16 of 1877 ;
,, ,, Bom. 21 of 1929.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Repealed in part by Act 1 of 1938.
Amended by Bom. 17 of 1945.*
Adapted and modified by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

An act to limit the jurisdiction of the Civil Courts throughout the Bombay Presidency in matters relating to the land revenue, and for other purposes.

WHEREAS in certain parts of the Presidency of Bombay the jurisdiction of the Civil Courts in matters connected with the land-revenue is more extensive than it is in the rest of the said Presidency ; Preamble.

and whereas it is expedient that the jurisdiction of all the Civil Courts in the said Presidency should be limited in manner hereinafter appearing ;

and whereas it is also expedient to amend the [2]Bombay Civil Courts Act, section 32, *and to revive certain provisions of the*[3] *thirteenth section of Regulation XVII of 1827 of the Bombay Code, which was repealed by the Land Improvement Act, 1871*[4]* * * * ;

XIV of 1869. XXVI of 1871.

It is hereby enacted as follows :—

1. This Act may be called the Bombay Revenue Jurisdiction Act, 1876. Short title.

So much of section 4 as relates to claims to set aside, on the ground of irregularity, mistake or any other ground except fraud, sales for arrears of land-revenue, shall come into force on such day as the Governor-General in Council directs in that behalf by notification in the *Gazette of India*. The rest of this Act shall come into force on the passing thereof ; Commencement.

and it shall extend to all the territories [6]* * * * under the government of the Governor of Bombay in Council, but not so as to effect— Extent.

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[1] For Statement of Objects and Reasons, *see Gazette of India*, 1873, Pt. V, p. 534, for Preliminary-Report of the Select Committee, *see ibid*, 1874, Pt. V, p. 70 ; for further Report of the Select Committee, *see ibid*, 1875, Pt. V, p. 210 ; and for Proceedings in Council, *see ibid*, 1875, Supplement, p. 4 and *ibid*, 1876, Supplement, pp. 344 and 405.

*The amendment made by this Act was saved by Bom. 52 of 1947, s. 2 proviso.

[2] *Supra*.

[3] S. 17 of this Act which revised s. 13, of Bom. Reg. 17 of 1827 was repealed by Act 15 of 1880, except in scheduled districts, *i.e.*, the villages belonging to the following Mehwassi Chiefs :—(1) The Parvi of Kathi ; (2) The Parvi of Nal ; (3) The Parvi of Singpur ; (4) The Walvi of Gaohalli ; (5) The Wassawa of Chikhli ; (6) The Parvi of Nawalpur to which the Bombay Land Revenue Code, 1879 (Bom. 5 of 1879), has not been extended : *see* s. 2 of Act 15 of 1880.

[4] The words "and to provide for the recovery by the Local Government of advances made for purposes other than those specified in section three of the Land Improvement Act, 1871," were repealed by the Repealing and Amending Act, 1894 (4 of 1894).

[5] The 19th September, 1881—*see* notification No. 197, dated 18th March, 1881, in *Gazette of India*, 1881, Pt. I, p. 92.

[6] The words "for the time being" were omitted by the Adaptation of Indian Laws Order in Council.

(*a*) any suit regarding the assessment of revenue on land situate in [1][the City of Bombay], or the collection of such revenue;

(*b*) any of the provisions of Bombay Acts V of 1862 and VI of 1862, or, of [2][Act [3]XXI of 1881] or of [4]Act XXIII of 1871;

[5]* * * * * *

2. [*Repeal of enactments.*] *Rep. Act XII of 1891.*

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"land" includes the sites of villages, towns and cities: it also includes trees, growing crops and grass, fruit upon, and juice in, trees, rights-of-way, ferries, fisheries and all other benefits to arise out of land, and things attached to the earth or permanently fastened to things attached to the earth:

"land-revenue" means all sums and payments, in money or in kind, received or claimable by or on behalf [6][of the Crown] from any person on account of any land held by or vested in him, and any cess or rate authorized [7][by the Provincial Government] under the provisions of any law for the time being in force:

"Revenue-officer" means any officer employed in or about the business of the land-revenue, or of the surveys, assessment, accounts or records connected therewith.

Bar of certain suits.

4. Subject to the exceptions hereinafter appearing, no Civil Court shall exercise jurisdiction as to any of the following matters:

(*a*) [8][claims against the Crown] relating to any property appertaining to the office of any hereditary officer appointed or recognised under [9]Bombay Act No. III of 1874 or any other law for the time being in force, or of any other village-officer or servant, or

claims to perform the duties of any such officer or servant, or in respect of any injury caused by exclusion from such office or service, or

suits to set aside or avoid any order under the same Act or any other law relating to the same subject for the time being in force passed [7][by the Provincial Government] or any officer duly authorized in that behalf, or

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[1] The words "the City of Bombay" were substituted for the words "the Collectorate of Bombay" by s. 9 of the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945 (Bom. 17 of 1945) Sch. E read with Bom. 52 of 1947, s. 2, proviso.

[2] This reference was substituted for the words and figures "Act XV of 1871" by the Repealing and Amending Act, 1891 (12 of 1891).

[3] The Broach and Kaira Incumbered Estates Act, 1881.

[4] The Pensions Act, 1871.

[5] Cl. (c) was repealed by the Repealing and Amending Act, 1895 (16 of 1895). It was as follows:— "(c) any suit instituted before the passing of this Act."

[6] The words "of the Crown" were substituted for the words "of Government" by the Adaptation of Indian Laws Order in Council.

[7] The words "by the Provincial Government" were substituted for the words "by Government", *ibid.*

[8] The words "claims against the Crown" were substituted for the words "claims against Government", *ibid.*

[9] The Bombay Hereditary Offices Act, 1874.

[1][claims against the Crown] relating to lands held under treaty, or to lands granted or held as saranjam, or on other political tenure, or to lands declared [2][by the Provincial Government] or any officer duly authorized in that behalf to be held for service ;

(*b*) objections—

to the amount or incidence of any assessment of land-revenue authorized [2][by the Provincial Government], or

to the mode of assessment, or to the principle on which such assessment is fixed, or

to the validity or effect of the notification of survey or settlement, or of any notification determining the period of settlement ;

(*c*) claims connected with or arising out of any proceedings for the realization of land-revenue or the rendering of assistance [2][by the Provincial Government] or any officer duly authorized in that behalf to superior holders or occupants for the recovery of their dues from inferior holders or tenants ;

claims to set aside, on account of irregularity, mistake or any other ground except fraud, sales for arrears of land-revenue ;

(*d*) [1][claims against the Crown]—

(1) to be entered in the revenue-survey or settlement-records or village-papers as liable for the land-revenue, or as superior holder, inferior holder, occupant or tenant, or

(2) to have any entry made in any record of revenue-survey or settlement or

(3) to have any such entry either omitted or amended ;

(*e*) the distribution of land or allotment of land-revenue on partition of any estate under [3]Bombay Act IV of 1868 or any other law for the time being in force ;

(*f*) [1][claims against the Crown]—

to hold land wholly or partially free from payment of land-revenue or to receive payments charged on or payable out of the land-revenue, or to set aside any cess or rate authorized [2][by the Provincial Government] under the provisions of any law for the time being in force, or

respecting the occupation of waste or vacant land belonging [4][to the Crown] ;

(*g*) claims regarding boundaries fixed under [3]Bombay Act No. I of 1865, or any other law for the time being in force, or to set aside any order passed by a competent officer under any such law with regard to boundary-marks :

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[1] The words "claims against the Crown" were substituted for the words "claims against Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "by the Provincial Government" were substituted for the words "by Government", *ibid.*

[3] Bom. 4 of 1868, Bom. 1 of 1865 (except ss. 37 and 38) and Bom. Reg. 17 of 1827 are repealed by the Bombay Land-revenue Code, 1879 (Bom. V of 1879), in areas in which the latter Act is in force. Ss. 37 and 38 of Bom. 1 of 1865 are repealed so far as they apply to any village in the Ratnagiri or the Kolaba District to which the Khoti Settlement Act, 1880 (Bom. 1 of 1880), extends or is extended.

[4] The words "to the Crown" were substituted for the words "to Government" by the Adaptation of Indian Laws Order in Council.

Proviso.

Provided that, if any person claim to hold wholly or partially exempt from payment of land-revenue under—

(*h*) any enactment for the time being in force expressly creating an exemption not before existing in favour of an individual or of any class of persons, or expressly confirming such an exemption on the ground of its being shown in a public record, or of its having existed for a specified term of years, or

(*i*) an instrument or sanad given by or by order of the [1][Provincial Government] under Bombay Act No. II of 1863, section 1, clause first, or Bombay Act No. VII of 1863, section 2, clause first, or

(*j*) any other written grant by the British Government expressly creating or confirming such exemption, or,

(*k*) a judgment by a Court of law, or an adjudication duly passed by a competent officer under [2]Bombay Regulation XVII of 1827, Chapter X, or under [3]Act No. XI of 1852, which declares the particular property in dispute to be exempt,

such claim shall be cognizable in the Civil Courts.

Illustrations to (*h*).

(1) It is enacted that, in the event of the proprietary right in lands, the property of Government, being transferred to individuals, they shall be permitted to hold the lands for ever at the assessment at which they are transferred. The proprietary right in certain lands is transferred to *A* at an assessment of Rs. 100. An exemption from higher assessment not before existing is expressly created in favour of *A* by enactment, and he may seek relief in the Civil Court against over-assessment.

(2) It is enacted that, when a specific limit to assessment has been established and preserved, the assessment shall not exceed such specific limit. *A* is the owner of land worth Rs. 100 for assessment. He claims to be assessed at Rs. 50 only on the strength of a course of dealing with him and his predecessors under which his land has not been more highly assessed. There is no exemption not before existing created by enactment, and *A*'s claim is not cognizable in a Civil Court.

(3) It is enacted that land-revenue shall not be leviable from any land held and entered in the land-registers as exempt. *A* claims to hold certain land as exempt on the ground that it has been so held by him, and is so entered in the land-register. This is an exemption expressly confirmed by enactment on the ground of its being shown in a public record, and *A*'s claim is cognizable in a Civil Court.

(4) It is enacted that the Collector shall confirm existing exemptions of all lands shown in certain maps to be exempt. *A* claims exemption, alleging that his land is shown in the maps to be exempt. *A*'s claim is cognizable in a Civil Court.

(5) It is enacted that assessment shall be fixed with reference to certain considerations and not with reference to others. This is not an enactment creating an exemption in favour of any individual or class, and no objection to an assessment under such an enactment is cognizable in a Civil Court.

Saving of certain suits.

5. Nothing in section 4 shall be held to prevent the Civil Courts from entertaining the following suits :

(*a*) suits [4][against the Crown] to contest the amount claimed, or paid under protest, or recovered, as land-revenue, on the ground that such amount is in

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[1] The words "Provincial Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

[2] Bom. 4 of 1868, Bom. 1 of 1865 (except Ss. 37 and 38), and Bom. Reg. 17 of 1827 are repealed by the Bombay Land-revenue Code, 1879 (Bom. V of 1879), in areas in which the latter Act is in force. Ss. 37 and 38 of Bom. 1 of 1865 are repealed so far as they apply to any village in the Ratnagiri or the Kolaba District to which the Khoti Settlement Act, 1880 (Bom. 1 of 1880), extends or is extended.

[3] Bombay Rent-free Estates Act, 1852.

[4] The words "against the Crown" were substituted for the words "against Government" by the Adaptation of Indian Laws Order in Council.

excess of the amount authorized in that behalf [1][by the Provincial Government] or that such amount had, previous to such claim, payment or recovery, been satisfied, in whole or in part or that the plaintiff, or the person whom he represents is not the person liable for such amount;

(*b*) suits between private parties for the purpose of establishing any private right, although it may be affected by any entry in any record of revenue-survey or settlement or in any village-papers;

(*c*) suits between superior holders or occupants and inferior holders or tenants, regarding the dues claimed or recovered from the latter;

and nothing in section 4, clause (*g*), shall be held to prevent the Civil Courts from entertaining suits, other than suits [2][against the Crown] for possession of any land being a whole survey-number or a recognized share of a survey-number;

[3][and nothing in section 4 shall be held to prevent the Civil Courts in the districts mentioned in the Second Schedule hereto annexed from exercising such jurisdiction as, according to the terms of any law in force on the twenty-eighth day of March, 1876, they could have exercised over claims [2][against the Crown]—

(*a*) relating to any property appertaining to the office of any hereditary officer appointed or recognized under [4]Bombay Act No. III of 1874 or any other law for the time being in force, or of any other village-officer or servant;

(*b*) to hold land wholly or partially free from payment of land-revenue;

(*c*) to receive payments charged on, or payable out of, the land-revenue.]

Bar of certain suits against Revenue-officers.

6. Revenue-officers shall not be liable to be sued for damages in any Civil Court for any act *bona fide* done or ordered to be done by them as such in pursuance of the provisions of any law for the time being in force.

If any Revenue-officer absconds or does not attend when called on by his official superior, and if the Collector of the district proceeds against him or his sureties for public money, papers or property according to the provisions of any law for the time being in force, such Collector shall not be liable to pay damages or costs in any suit brought against him by such officer or sureties although it appears that a part only, or no part whatever, of the sum demanded was due from the officer so absconding or failing to attend, or that he was not in possession of the papers or property demanded of him.

Punishment or prosecution of Revenue-officers no bar to civil remedies.

7. Nothing in any law for the time being in force which authorizes the punishment departmentally of any Revenue-officer for any offence or breach of duty, or which sanctions his prosecution criminally for such offence or breach, shall be held to bar any remedy which may be had in the Civil Court against such officer.

8 to 10. [*Suits against Revenue-officers; appeals from their proceedings; power for Local Government to call for record.*] *Rep. Act XV of 1880.*

Suits not to be entertained unless plaintiff has exhausted right of appeal.

11. No Civil Court shall entertain any suit [2][against the Crown] on account of any act or omission of any Revenue-officer unless the plaintiff first proves that previously to bringing his suit, he has presented all such appeals allowed by the law for the time being in force as, within the period of limitation allowed for bringing such suit, it was possible to present.

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[1] The words "by the Provincial Government" were substituted for the words "by Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "against the Crown" were substituted for the words "against Government", *ibid.*

[3] This paragraph was added by the Bombay Revenue Jurisdiction (Amendment) Act, 1877 (16 of 1877).

[4] The Bombay Hereditary Offices Act.

Power of Provincial Government to refer questions for decision of High Court.

12. If, in the trial or investigation of any suit, claim or objection which, but for the passing of this Act, might have been tried or investigated by a Civil Court, there arises any question on which [1]* * * * the [2][Provincial Government] desires to have the decision of the High Court, [1]* * * * the [2][Provincial Government] [3]* * * may cause a statement of the question to be prepared, and may refer such question for the decision of the High Court of Judicature at Bombay.

The said High Court shall fix an early day for the hearing of the question referred, and cause notice of such day to be placed in the court-house.

The parties to the case may appear and be heard in the High Court in person or by their advocates or pleaders.

The High Court, when it has heard and considered the case, shall send a copy of its decision, with the reasons therefor, under the seal of the Court, to the Government by which the reference was made, and, subject to any appeal which may be presented to Her Majesty in Council, the case shall be disposed of conformably to such decision.

If the High Court considers that any such statement is imperfectly framed, the High Court may return it for amendment.

The costs (if any) consequent on any such reference shall be dealt with as the High Court in each case directs.

Power of Civil Judge to refer questions of jurisdiction to High Court.

13. If in any suit instituted, or in any appeal presented, in a Civil Court, the Judge doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the High Court.

The High Court may order the Judge making the reference either to proceed with the case or to return the plaint.

The order of the High Court on any such reference shall be subject to appeal to Her Majesty in Council, and, save as aforesaid, shall be final.

Composition of Bench.

14. Every reference under section 12 or section 13 shall be heard by a Bench consisting of such number of Judges, not less than three, as the Chief Justice from time to time directs.

15. [*Amendment of Section 32 of Act XIV of 1869.*] *Rep. Act I of 1938.*

Privileges of the Crown [6]* * * in suits defended by it.

[4]**16.** Whenever any suit is brought in any Court of a subordinate judge of the first class [5][against the Crown] [6]* * * * or against any Revenue Officer, [7][and the Crown [6]* * * undertakes] the defence thereof, it shall be lawful [8][for the Provincial Government], by certificate signed by a Secretary thereto, to require that the trial of any such suit shall have precedence over the trial of any other suit or other civil proceeding then pending in the Court of the first class subordinate judge, or, if the suit is transferred, in the Court of the District Judge; and the Court shall give effect to every such requirement.

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[1] The words "the Governor General in Council or" were omitted by the Adaptation of Indian Laws Order in Council.

[2] The words "Provincial Government" were substituted for the words "Local Government", *ibid.*

[3] The words "as the case may be" were omitted, *ibid.*

[4] S. 16 was substituted for the original by section 2 of Bom. 21 of 1929.

[5] The words "against the Crown or the Federal Railway Authority" were substituted for the words "against Government" by the Adaptation of Indian Laws Order in Council.

[6] The words "or the Federal Railway Authority" were omitted by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

[7] The words "and the Crown or the Federal Railway Authority undertakes" were substituted for the words "and the Government undertakes" by the Adaptation of Indian Laws Order in Council.

[8] The words "for the Provincial Government" were substituted for the words "for the Government", *ibid.*

The privilege conferred [1][on the Provincial Government] by this section shall, *mutatis mutandis*, apply to any appeal or special appeal against any decree in any such suit as is described in this section.

17. [*First clause. Revival of section 13 of Bom. Reg. XVII of 1827.*] *Repealed by Act XV of 1880; but the repeal does not operate in any scheduled district unless and until the Bombay Land-revenue Code (Bom. V of 1879) has been extended to such district.*

[*Second clause. Operation of Bom. Reg. XVII of 1827 in sites of villages and towns.*] *Rep. Act. XV of 1880.*

[*Third clause. Recovery of certain advances made by Local Government.*] *Rep. Act XV of 1880.*

SCHEDULE.

[ENACTMENTS REPEALED.]

Repealed by Act XII of 1891.

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[2][THE SECOND SCHEDULE.

The district of Ahmedabad.

The district of Kaira, exclusive of the Panch Mahals.

The district of Broach.

The district of Surat, exclusive of the lapsed State of Mandvi, as described in the Schedule annexed to [3]Act X of 1848.

The district of Thana.

The district of Kolaba, exclusive of the lapsed State of Kolaba mentioned in [3]Act VIII of 1853.

The district of Ratnagiri.

The district of Kanara.]

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[1] The words "on the Provincial Governmet" were substituted for the words "on Government", by the Adaptation of Indian Laws Order in Council.

[2] This Schedule was added by the Bombay Revenue Jurisdiction (Amendment) Act, 1877 (16 of 1877). It is referred to in s. 5, *supra*.

[3] Acts 10 of 1848 and 8 of 1853 were repealed by the Repealing and Amending Act, 1891 (12 of 1891).